

PATENT COOPERATION TREATY

PCT

10/53-010

INTERNATIONAL PRELIMINARY EXAMINATION REPORT

(PCT Article 36 and Rule 70)

Applicant's or agent's file reference	FOR FURTHER ACTION See Notification of Transmittal of International Preliminary Examination Report (Form PCT/PEA/416)	
International application No. PCT/IN 02/00235	International filing date (day/month/year) 16.12.2002	Priority date (day/month/year) 16.12.2002
International Patent Classification (IPC) or both national classification and IPC C07D217/26		
Applicant LUPIN LIMITED et al.		

1. This international preliminary examination report has been prepared by this International Preliminary Examining Authority and is transmitted to the applicant according to Article 36.


2. This REPORT consists of a total of 4 sheets, including this cover sheet.

- ☐ This report is also accompanied by ANNEXES, i.e. sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications made before this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions under the PCT).

These annexes consist of a total of sheets.

3. This report contains indications relating to the following items:

- I ☒ Basis of the opinion
- II ☐ Priority
- III ☐ Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
- IV ☐ Lack of unity of invention
- V ☒ Reasoned statement under Rule 66.2(a)(ii) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
- VI ☐ Certain documents cited
- VII ☐ Certain defects in the international application
- VIII ☐ Certain observations on the international application

Date of submission of the demand 12.01.2004	Date of completion of this report 06.10.2004
Name and mailing address of the international preliminary examining authority:  European Patent Office D-80298 Munich Tel. +49 89 2399 - 0 Tx: 523656 epmu d Fax: +49 89 2399 - 4465	Authorized Officer Scruton-Evans, I Telephone No. +49 89 2399-8272



**INTERNATIONAL PRELIMINARY
EXAMINATION REPORT**

International application No. PCT/IN 02/00235

I. Basis of the report

1. With regard to the elements of the international application (*Replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report since they do not contain amendments (Rules 70.16 and 70.17)*):

Description, Pages

1-28 as originally filed

Claims, Numbers

1-29 as originally filed

Drawings, Sheets

1/6-6/6 as originally filed

2. With regard to the **language**, all the elements marked above were available or furnished to this Authority in the language in which the international application was filed, unless otherwise indicated under this item.

These elements were available or furnished to this Authority in the following language: , which is:

- ☐ the language of a translation furnished for the purposes of the international search (under Rule 23.1(b)).
☐ the language of publication of the international application (under Rule 48.3(b)).
☐ the language of a translation furnished for the purposes of international preliminary examination (under Rule 55.2 and/or 55.3).

3. With regard to any **nucleotide and/or amino acid sequence** disclosed in the international application, the international preliminary examination was carried out on the basis of the sequence listing:

- ☐ contained in the international application in written form.
☐ filed together with the international application in computer readable form.
☐ furnished subsequently to this Authority in written form.
☐ furnished subsequently to this Authority in computer readable form.
☐ The statement that the subsequently furnished written sequence listing does not go beyond the disclosure in the international application as filed has been furnished.
☐ The statement that the information recorded in computer readable form is identical to the written sequence listing has been furnished.

4. The amendments have resulted in the cancellation of:

- ☐ the description, pages:
☐ the claims, Nos.:
☐ the drawings, sheets: =

**INTERNATIONAL PRELIMINARY
EXAMINATION REPORT**

International application No. **PCT/IN 02/00235**

5. ☐ This report has been established as if (some of) the amendments had not been made, since they have been considered to go beyond the disclosure as filed (Rule 70.2(c)).

(Any replacement sheet containing such amendments must be referred to under item 1 and annexed to this report.)

6. Additional observations, if necessary:

V. Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Statement

Novelty (N)	Yes: Claims	1-29
	No: Claims	
Inventive step (IS)	Yes: Claims	1-29
	No: Claims	
Industrial applicability (IA)	Yes: Claims	1-29
	No: Claims	

2. Citations and explanations

see separate sheet

**INTERNATIONAL PRELIMINARY
EXAMINATION REPORT - SEPARATE SHEET**

International application No. PCT/IN 02/00235

Re Item V

Reasoned statement under Rule 66.2(a)(ii) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

The following documents cited in the search report are referred to in this communication;

D1: EP-A-0285992

D2: EP-A-0992495

D3: US-A-4344949

With regard to the requirement for novelty (Article 33(2) of the PCT), the novelty of the compound claims 1-4 re D1-D3 resides in the nitroalkane solvate. For the process claims 5-29 are novel with respect to D1-D3 due to the steps c) and d). Article 33(2) of the PCT is thus satisfied.

With regard to the requirement for inventive step (Article 33(3) of the PCT), the problem underlying the present application was the provision of quinapril hydrochloride of high purity. The solution provided by the Applicant is the use of the nitroalkane solvate. D2 describes the use of a toluene solvate which is replaced by a solvate of a class 3 solvent, and is considered to be the closest prior art. The use of the nitroalkane solvate is not directly derivable from the prior arts, and does indeed lead to advantages re the process of D2, in that low flash points are avoided and a two step solvate formation is avoided. Thus the problem can be considered to have been solved in a non-obvious manner, and the solvates of claims 1-4 are necessary intermediates for the process of claims 5-29, and thus benefit from the inventive step acknowledged therefore. It is noted, however, that the term "substantially free from impurities" has no definition in the description.

The Canadian application no. on page 4 appears to be incorrect.